



## **WINROCK INTERNATIONAL REQUEST FOR SUBMISSION OF PROPOSALS**

The Winrock International (Winrock) implemented USDA-funded Thailand Regional Agriculture Innovation Network (RAIN) project identifies, validates, scales and shares climate-smart agriculture technologies and practices that have been validated through a rigorous, evidence-based, participatory process known as “5-S:” 1) Source; 2) Support; 3) Scale; 4) Sell; and 5) Share. RAIN validates climate-smart technology, builds the capacity of private and public sector actors to disseminate technologies to farmers, and supports farmers in adoption of technologies. RAIN works with sub-partner Michigan State University to implement this project in eight provinces in Thailand across three important agriculture value chains: rice, cassava, and fruit. The goal is to increase productivity, profitability, and trade opportunities in the Thai agriculture sector while simultaneously reducing greenhouse gas emissions and natural resource depletion.

The USDA-funded Laos Creating Linkages for Expanded Agricultural Networks (CLEAN) project uses a value chain approach working to improve the agriculture sector in Laos. The project facilitates private investment in supply chain infrastructure to increase production, reduce post-harvest losses and improve quality compliance and certification systems, and develop linkages and increase demand for clean and safe horticulture in domestic, sub-regional and global markets. Winrock works to support market-ready farmers, agro-enterprises, entrepreneurs and traders in selected horticultural value chains (cabbages, cassava, coffee and sacha inchi) in two distinct regions: the Bolaven Plateau and the Vientiane Plain.

The Food Assistance Division (FAD) of the USDA’s Foreign Agricultural Service (FAS) is funding the RAIN project in Thailand. Project implementation is supported by proceeds realized from the international market sale (monetization) of U.S. agricultural commodities donated to implementing partners that have been awarded Food for Progress (FFPr) grants. To fully fund the RAIN and CLEAN Projects, Winrock will monetize approximately MT 35,000 of soybean meal in Indonesia in 2023.

USDA requires that all implementing partners conduct a post monetization impact assessment to determine the impact of monetization sales on local markets and commercial trade. **Winrock is recruiting a third-party objective evaluator, or evaluation team, to provide monthly market assessment briefs and a post-monetization market assessment. This assignment will require desk-guided research and travel to Indonesia. Qualified vendors are those that have been involved in similar projects in the past, particularly within the last five (5) years.**

Interested parties may send their proposals as outlined below.

## REQUEST FOR PROPOSAL

United States Department of Agriculture, Food for Progress

### Regional Agricultural Innovation Network (RAIN) and Creating Linkages for Expanded Agricultural Networks (CLEAN)

#### Post-Monetization Impact Assessment

---

The purpose of this Request for Proposal (RFP) is to solicit proposals from organizations interested in conducting a post-monetization assessment related to the sale of agricultural commodities in Indonesia. The terms of reference outlined herein may be subject to change by Winrock International or the U.S. Department of Agriculture. Any changes to the terms of reference will be communicated to interested vendors and, if deemed necessary by Winrock, the deadline for submission will be extended.

#### I. POST-MONETIZATION EVALUATION SCOPE OF WORK

##### A. Purpose:

The primary objective of the post monetization assessments is to document the effects of monetization in Indonesia (place of sale) to determine whether monetization sales caused any adverse market impacts. Adverse impacts may include: displacing commercial trade and discouraging local food production.

##### B. Key Tasks:

- Review of the project's approved monetization plan and related sales documents
- Collect data from both primary and secondary sources of information related to the commodity and commodity market
- Monitor the commodity market to understand the pricing trends related to the operating environment, compare against historic data, and global data point;
- Identify any effects attributable to monetization
- Track and record local prices at regular intervals and at relevant marketing points
- Produce monthly brief on market conditions post monetization in a standard two-page format
- Prepare Post-Monetization Impact Assessment for dissemination to Winrock International and USDA
- Travel to Indonesia to conduct field research and market analysis, including primary data gathering, and interviews with market actors.

##### C. Key Deliverables:

- Work plan inclusive of timeline specifying key activities and deliverable due dates
- Data quality assurance plan
- Data collection strategy/tools
- Clean data sets to be shared with USDA as needed

- A 2-3-page standalone brief describing the evaluation design, key findings and other relevant considerations. This document should serve to inform ANY interested stakeholder of the Post Monetization Impact Assessment, and should be written in language easy to understand by non-evaluators with appropriate graphics and tables

#### **D. Key Evaluation Questions:**

- To what extent did monetization affect local production and consumptions in the short-term (few months after monetization) and long-term (marketing year after monetization<sup>1</sup>)?
- To what extent did monetization displace commercial trade in the short-, medium-, and long-term?
- Are there any substitute commodities for the selected commodity? If so, did the monetization of the selected commodity impact production/marketing of substitute commodities?
- Was the timing and volume of the sale appropriate?
- Did sales occur as intended or was there a lag because of unforeseen conditions in the market?
- What were the initial estimates for price and quantity of the monetized commodity? What were the actual prices and quantities of the commodities sold?
- To what extent was in-country storage utilization affected?
- Was the transportation infrastructure affected?
- Were buying patterns of local and international actors affected? If so, what the magnitude and length of the change?
- Was there an effect on prices? If so, at what level?
- What happened to local and international prices during this time period? (Sudden change that was higher or lower than was unusual)?
- Do price fluctuations follow global/regional patterns?
- Were there any other market factors that could have impacted prices during that time? (For example, adverse weather affecting production)?

#### **E. Market Information requiring analysis:**

- Market context – how the commodity is produced, consumed/processed, traded, marketed generally in the context of this particular country/region. This would also include a discussion of relevant country policies and regulations that impact the market dynamics of the commodity.
- Prices (in country-ideally farm gate prices if the commodity or substitute commodity is produced locally, prices where the commodity is being used and international) – if prices are in local currency, there

---

<sup>1</sup> USDA uses local marketing years in official estimates in the Production, Supply and Distribution (PSD) database. Marketing years differ by country and by commodity. For more information on definitions related to the PSD database please see <https://apps.fas.usda.gov/psdonline/app/index.html#/app/about#G10>

should be some discussion as to what is happening to the currency vs the U.S. dollar over the time period.

- Commodity supply and demand balance sheet for a few years prior and current year (i.e. similar to USDA's PSD or Production, Supply, and Distribution) for the commodity and country. Evaluators may use USDA PSD balance sheets for a commodity and country if they are available. USDA PSD estimates should be cross checked with local market analysts and discrepancies should be noted and discussed in the Impact Assessment. A supply and demand balance sheet includes estimates for the following and balances (i.e. Supply equals Demand):
  - Supply:
    - Beginning Stocks (this is different than local storage capacity)
    - Production (including estimates of acreage planted and harvested AND yield)
    - Imports
  - Demand:
    - Consumption (human, for feeding animals (if applicable), residual)
    - Exports
    - Ending stocks

## II. SUBMISSION REQUIREMENTS

Local and international organizations that are interested should submit a proposal. The proposal submission should include each of the following sections in the specific order listed below in order to be considered for this activity:

**Technical proposal** (not exceeding 15 pages) The technical proposal should reflect how the vendor would undertake all the tasks in the Scope of Work. The vendor will provide a detailed plan of specific activities and timetable for carrying out the assignment and data collection and analysis activities.

**Organization** (maximum of 2 pages) The vendor shall provide summary of organizational capacity to conduct post-monetization assessments. This section should also state the organizational legal status, type of ownership and management, overview of projects/services, and geographic scope.

**Team Composition** (maximum of 2 pages) The vendor shall list and briefly describe the name(s), qualifications and responsibilities of the staff proposed to work on the assignment. (CVs of proposed personnel should be included in an annex and not counted toward page limit).

Proposed staff should meet the following requirements at a minimum:

- Master's degree in economics, agricultural economics, agribusiness or a related field
- Minimum of five years experiences working on market assessments, market/trade analysis and impact evaluation
- Familiarity with commodity monetization schemes preferred but not required
- Extensive experience with quantitative and qualitative data collection techniques

- Experience preparing high quality evaluative reports for similar types of assessments
- Ability to travel to/within Indonesia

**Experience** (maximum of 4 pages) Illustrative listing of contracts, grants, or cooperative agreements involving similar or related assignment within the last three years. Reference information must include the location, a brief description of work performed, value of the project, and contact with current telephone numbers. Winrock reserves the right to contact these projects as an organizational reference in the selection process.

**Assumptions and Risks** (maximum of half page) Describe assumptions which are necessary for the assessment to be implemented. Describe any risk/threats which could potentially threaten implementation of the activities and what is or will be done to mitigate these risks.

**Work Plan (maximum of 2 pages)** Here the vendor should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the SOW and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work schedule. Payments on the resulting contract will be tied to completion of deliverable.

**Financial Budget** (length as required to clarify proposed costs) The vendor shall propose a realistic cost estimate for this assignment, including a line-item budget and budget narrative that justifies expenses. The budget shall include only those costs that can be directly attributed to the activities proposed (with explanation of line items/budget narrative). The line-item budget should include expenses for enumerator training. In the budget narrative, the vendor must show existence of financial and administrative systems to adequately account for funds provided under this assignment.

An example of financial budget is given below:

SI	Line Item	Unit Cost	Number of Units	Cost
I.	Professional Remuneration			
II.	Travel and Per Diem			
III.	Supplies and Equipment			
IV.	General Administrative Costs			
<b>Total Cost (including applicable VAT and tax, and others cost as per country law):</b>				

N.B. Please add detailed cost breakdown documents for summery of cost. The above line items are provided only as an example for the purposes of understanding. Please add separate sheet or more Column & Row for detail information, if necessary. Please provide a detailed budget in excel format using the template provided with this RFP as a separate attachment.

## Terms and Conditions

Each Bid must conform to the following requirements

1. Must agree to the general provisions outlined in Attachment A. Any variations must be requested in the bid submission and agreed to before a Subcontract is issued.
2. No minimum order requirements may be made by a bidder.
3. Winrock International will not consider advance payment.
4. A Bidder may withdraw or change a bid before the deadline to receive bids if written notice of the withdrawal or change is received by Winrock for submission of bids. Any changes may be made only by substitution of another bid.
5. Bids received after the time specified in the request for bid will not be considered and shall be returned to the respondent.
6. Final Payment by Winrock will not be made until work carried out has been accepted in full and associated reports have been approved by Winrock program team.
7. If Vendor ceases to conduct its operations in the ordinary course of business or is unable to meet its obligations, Winrock may cancel this procurement without liability except for services previously provided or for services received.
8. The bidder must have excellent communication skills and methods and be able to communicate very clearly at every step of development, both providing information to the Winrock team as well as requesting, understanding and closely following guidance from the Winrock team.

## III. PROPOSAL SELECTION

### A. Evaluation Criteria

Submitted Proposals must clearly demonstrate alignment with the SOW outlined above with an adequate level of detail. The following are criteria that all proposals will be judged on:

Proposal Evaluation Committee (PEC) set out by WI will review the technical as well as financial proposals as per Eligibility/Qualification and Technical criteria mentioned below. Technical proposal will carry 70% weightage; and financial proposal will carry 30% weightage. The proposal will be ranked according to combined technical and financial score using the weightage. Technical Evaluation criteria and allocated points are as follows:

Evaluation criteria		Points
1 (a+b+c)	Specific experience of the firm vendors related to this assignment	40
1.1.a	Minimum of 5 years of demonstrated experience in designing and conducting similar studies in development sector	20
1.1.b	Experience in working with US government grants, specifically USDA and/or USAID	10

1.1.c	Knowledge of agriculture sector (in particular in Indonesia and soybean / soybean meal)	10
2 (2.1+2.2)	Implementation and Quality Assurance Plan	40
2.1	Understanding the assignment, comments and suggestions of Consultant/s on the Terms of Reference.	10
2.2 (a+b+c)	Roll out plan	30
2.2.a	Team Composition and task assignment	10
2.2.b	Roll out plan and calendar which reflects all proposed activities	10
2.2.c	All proposed activities reflecting the assignment properly	10
3 (3.1+3.2)	Professional qualification and competence for the assignments	20
3.1	Consultant/s educational and professional qualifications	10
3.2	List of similar assignment conducted, with brief description and references for each	10
Total Points		100

As a part of evaluation process, the vendor may be interviewed/asked for presentation on submitted proposal by Proposal Evaluation Committee. Only vendors that obtain more than 65% in the technical proposal will have their financial proposal reviewed.

### B. Evaluation of Financial Proposal

A financial proposal shall include Summary of Costs, Breakdown of Staff Remuneration, Travel and DSAs (Daily Subsistence Allowance), miscellaneous, overhead costs (if any). Total cost of the financial proposal (after correctness and confirmation of arithmetical error, if any) will be considered for financial evaluation. Evaluation will be done based on proposed budget amount linked with deliverables. A critical analysis will be done to cross check the proposed amount is appropriate and justified to complete the assignment.

	Particulars	Points
1	Presentation of Summary budget	20
2	Detailed, line-item budget with all units and unit rates	40
3	Budget note and justification of each cost	40
	TOTAL	100

### C. Selection Process

The potential vendor will be evaluated according to the criteria mentioned above. Winrock will be following an internal evaluation and selection process.

- Solicitation disseminated on September 21, 2023.
- Deadline for submission of questions to Winrock on RFP is October 27, 2023.
- Responses on questions disseminated to vendors by November 3, 2023.
- Deadline for submission of proposal is November 10, 2023 by 5:00 pm (EST).
- Submission should not include any zipped files.
- Winrock may request additional documentation after the bid deadline.
- Winrock will review submitted proposals after the closing date
- Winrock will conduct in-person or remote interviews with vendors under consideration as necessary.
- Winrock reserves the right to consult vendor's provided references of prior clients, included in experience section of proposal.
- Selected vendor will be notified within 3 weeks of the submission deadline;
- Winrock will work with the selected vendor to develop a contract with the Scope of Work, budget, and timeline; and
- Winrock reserves the right to negotiate with vendors with or without discussion.

#### **D. Instructions to Bidders**

- Validity of bid: 60 days starting from the submission date.
- Cost quoted must include unit price and total price in USD and inclusive of tax (tax should be listed separately)
- Technical and financial proposal should be submitted as separate attachments
- Payment terms and complete banking information
- Winrock reserves right to make changes or cancel this solicitation as required by USDA
- Agreement will be offered as fixed price (detail budget is required for analysis)
- Bidders must provide a Unique Entity Identifier (UEI) at the time of award. If the bidder already has a UEI, it should be included in their bid. Otherwise, bidders will be expected to get a UEI before a subcontract is issued. UEIs can be obtained online at <https://sam.gov/content/home>. Please note that this only applies when the prime funder is a US Government (USG) entity.

#### **E. Bid Documents to Include**

- Legal Business Name
- Authorized contact including address, phone number and email



- Proof of business registration and nationality
- Provide legal establishment / registration, GST, NTN certificates or any other additional supporting documents (if any)
- Proposed vendor must provide information, organizational profile, CVs of key staff/team members and documentary evidence to establish that they have met eligibility criteria for this service.
- Vendor must clearly indicate in their profiles for the past evaluation work they have conducted, with names of references for each.
- A list of previous similar contracts completed successfully with the names and contact information of clients.
- A sample of similar assignment done previously.

#### **F. Submission Procedures**

Submissions must be in English. All pages must be numbered and include the RFP title and name of organization on each page. The proposals must be emailed to Winrock RAIN project to the attention of:

Molly Schneider

Senior Program Manager, Agriculture, Resilience and Water, Winrock International

[Molly.Schneider@winrock.org](mailto:Molly.Schneider@winrock.org)

Please include the name of the person in your organization who is submitting the proposal as well as the current telephone and email contacts.

Winrock reserves the right to fund any or none of the proposals submitted.

#### **Award**

Winrock anticipates notifying successful Vendor and provide agreement for signature the week of August 28, 2023.

#### **Annexes:**

Annex A – Winrock General Terms and Conditions

Annex B – USDA Flow Down Terms and Conditions

Annex C – Detailed Budget Template, included as a separate attachment

## **Attachment A: WINROCK GENERAL TERMS AND CONDITIONS**

These are the general terms and conditions and are applicable unless otherwise indicated in the Schedule of the subcontract. The terms and conditions indicated in the Schedule of the subcontract shall at all times supersede any terms and conditions in this attachment.

- 1. TERMS.** The term “subagreement, subcontract, and grant” are used interchangeably throughout this subcontract and shall have the same meaning. The term “subrecipient, subcontractor, and grantee” are also used interchangeably and shall have the same meaning.
- 2. TAXES**
  - A.** For purposes of this Subcontract, “taxes” means all taxes, duties or other official exactions of whatever nature, whether in force on the Start Date or after-imposed, and whether levied in the United States, the Cooperating Country, or elsewhere, arising out of or relating to payments made to or received by Subcontractor pursuant to the Subcontract, to personnel (regardless of nationality, type of agreement, or length of service) assigned by Subcontractor to work on the Program, or that are otherwise associated with the making or performance of the Subcontract, the legal incidence of which falls on Subcontractor, its activities, its personnel, or any other person or entity for which Subcontractor is responsible.
  - B.** Subcontractor is solely liable for payment of all taxes as defined above, which, however, will be eligible for reimbursement under the Subcontract if they are (1) included in the budget, (2) comply with the Applicable Cost Principles and any other pertinent provision(s) of the Subcontract, and (3) are not subject to available exemptions, reductions, remissions, and/or rebates.
- 3. CURRENCY.** All ceilings, funding limitations, and all invoices, payments, claims, liabilities, and other accounts, documents, and communications of whatever nature arising under or relating to this Subcontract and the circumstances surrounding its making and performance are and shall be denominated exclusively in in the currency indicated on the cover page, without exposure of Winrock to fluctuations in the relative value of other currencies, unless otherwise specifically agreed in writing by the Parties. Agreement by Winrock to pay any cost or amount in any other currency shall not be deemed to be a waiver or deviation from the principle contained in the foregoing sentence.
- 4. PROGRAM IMPLEMENTATION.** The Subcontractor acknowledges its critical role in Program success as well as the fact that, with its Funder’s emphasis on past performance, the quality of the Subcontractor’s performance may have a direct effect on Winrock’s performance evaluations and ability to obtain future assistance awards. Accordingly, subject to the provisions of the Subcontract the Subcontractor:
  - A.** Commits to devote all necessary personnel, labor, facilities, supplies, equipment, materials and other resources and inputs to the successful realization of the purposes and results set forth in the Subcontract; and

- B. Agrees to take all necessary and practicable steps to ensure the satisfaction of Funder, the Cooperating Country, and all other Program participants and stakeholders.

## **5. SUBCONTRACTOR MONITORING**

- A. Pursuant to U.S. government requirements, Winrock, as Prime awardee, will perform the following regarding the Subcontractor:
  - B. Identify the applicable Prime Award. The number of the Prime Award is stated on the Cover Page.
  - C. Advise of Funder requirements. All current Funder requirements are incorporated or otherwise reflected in the Subcontract.
  - D. Monitor compliance, funds use, and performance. Winrock will perform appropriate and reasonable monitoring of Program activities using standard, widely recognized monitoring techniques such as site visits.
  - E. Winrock and/or its Funder may at any time, or from time to time, require that evaluations or other assessments be conducted regarding the Program. Such evaluations or assessments may be conducted by Winrock, or one or more third parties. The Subcontractor shall cooperate fully with all such evaluations and provide such assistance and input as the evaluator may reasonably request.

## **6. INDEPENDENT RELATIONSHIP**

- A. Notwithstanding normal award and administration processes and the provision of guidance by Winrock program staff, the relationship between the Parties in implementing the Program shall be that of an arm's length independent relationship rather than a servant or agent. The Parties do not intend to create any kind of joint venture, partnership, or other formal business relationship or association of any kind whatsoever. Nothing herein shall be construed to provide for the sharing of profits and losses arising out of or relating to the efforts of either or both Parties, except as may be specifically provided herein. Subcontractor shall have no authority, whether express or implied, to purport to contract for or bind Winrock in any manner or to any extent and shall make clear to all third parties with which it deals that it has no such authority.
- B. Subcontractor personnel, shall, at all times, be under the Subcontractor's sole supervision, direction and control, and shall not be deemed to be Winrock personnel for any purpose. The Subcontractor is solely responsible for payment of all wages, salaries, and other amounts due or to become due to such personnel in connection with the Subcontract and for all reports and obligations to social security, income tax withholding, unemployment compensation, worker's compensation, and the like. The Subcontractor shall indemnify and hold Winrock harmless against any claim or liability (including, without limitation, fines, penalties and reasonable attorney's and expert consultant fees and costs) resulting from Subcontractor's failure to comply with the provisions of this article.

- 7. COMMUNICATIONS WITH FUNDER OR COOPERATING COUNTRY OFFICIALS.** Winrock favors wide and free dissemination of information resulting from its awards; however, Winrock must appropriately manage communications with its funders. Balancing these objectives, Winrock requires the

Subcontractor to ensure that, except as otherwise approved by Winrock, all communications (whether oral, written, or electronic) by the Subcontractor, its personnel, contractors, suppliers, and lower-tier Subcontractors concerning or affecting performance of any aspect of the Subcontract, the Program, the Prime Award, and the Program, shall be made solely to Winrock and not directly its Funder or Cooperating Country officials.

**8. DISPUTES.** Any disputes arising out of this Agreement or from a breach thereof shall be submitted to arbitration in Little Rock, Arkansas, and the judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitration shall be held under the standard form of the applicable Rules of the American Arbitration Association. The law of Arkansas shall apply and the statutes of limitation thereunder apply to any arbitration as if it were an action in a court of competent jurisdiction.

**9. INSURANCE**

- A.** The Subcontractor is solely responsible for all applicable taxes, benefits, worker’s compensation insurance or equivalent, health insurance, all risk property insurance and a comprehensive general liability insurance with financially sound and reputable insurance companies, and other insurance as required under the applicable laws. The eligibility for reimbursement of the costs of various types of insurance in connection with the Program will be determined pursuant to the Applicable Cost Principles. The Subcontractor must hold a valid work permit and ensure that it operates in compliance with applicable laws.
  - B.** The Subcontractor warrants that it shall obtain and maintain adequate insurances against all risks in respect of any property and any equipment used for the execution of this Subcontract.
  - C.** The Subcontractor shall be solely liable for the loss or theft of, or damage to, any and all items purchased with Subcontract funds (including items in the possession of its lower-tier Subcontractors), and, immediately upon any such loss, theft or damage, shall replace such items at its own expense. In addition, the Subcontractor shall be solely liable for the loss or theft of any Subcontract funds held in cash by the Subcontract or any of its agents or lower-tier Subcontractors and shall have no recourse to Winrock or its Funder for any such loss or theft.
- 10. GENERAL INDEMNITY.** Both Parties shall hold harmless and indemnify each other and their respective directors, officers, agents and employees from and against all causes of action, losses, claims, liabilities, damages (including but not limited to costs, reasonable attorneys’ fees, and amounts paid in reasonable settlement thereof) which arise or are alleged to arise as a result of the negligent acts, errors or omissions or willful misconduct of a Party, its director, officers, agents or employees.
- 11. HUMAN SUBJECTS RESTRICTION.** Should the Subcontract include any activities involving Human Subjects, as defined by the Common Rule (45 CFR part 46), the Subcontractor shall comply with the federal policy for the protection of human subjects (45 CFR part 46). If an Institutional Review Board (IRB) is needed, the Subcontractor shall implement research activities only after receiving approval or exempt status from an IRB registered with the US Government. The IRB determination letter should be submitted to the Winrock Contact Representative. If the Winrock Contact Representative submitted to the IRB, Subcontractors will receive a copy of the determination letter prior to implementation. If the

Subcontractor wishes to make changes to the approved protocol, modification requests must be submitted to and approved by the IRB prior to implementing changes. The Subcontractor's efforts may be reviewed from time to time by Winrock or third-party agent as needed. The Subcontractor agrees to report any protocol deviations or serious adverse events in a timely manner to the Winrock Contact Representative.

- 12. ETHICS AND INTEGRITY.** The Subcontractor agrees, in executing this Subcontract and in performing its obligations in connection therewith, to ensure that it, its officers, directors, employees, agents, lower-tier subcontractors, contractors and suppliers do the following:
- A. To scrupulously avoid any actions in violation of (or that might reasonably be considered by any person as possibly being or appearing to be in violation of) any laws, regulations, rules or Funder policies relating to ethics and integrity.
  - B. That it has not engaged, and will not engage, in any corrupt practice (including, without limitation, the offering, giving, receiving or soliciting of anything of value to influence the action of any public official or any officer or employee of Winrock) or fraudulent practice (including, without limitation, misrepresentation of facts in order to influence a procurement practice or the execution or administration of the Subcontract or the Prime Award, to the actual or potential detriment of Winrock or its Funder).
  - C. Establish conflict of interest safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others such as those with whom they have family, business, or other ties. Each institution receiving funds must have written policy guidelines on conflict of interest and avoidance thereof. These guidelines should reflect country and local laws and must cover conflict of interest situations regarding financial interests, gifts, gratuities and favors, nepotism, and other areas such as political participation and bribery. Winrock must be informed of any conflict of interest or appearance of conflict of interest by the Subcontractor. If organizational or management systems cannot be structured to neutralize such conflict, Winrock may choose to terminate the relationship with the Subcontractor.
  - D. Subcontractor shall comply with all laws and regulations in the jurisdictions where it is performing under this Subcontract. Subcontractor is familiar with applicable anti-corruption, anti-bribery, anti-kickback, laws and regulations and will not undertake any actions that may violate these laws and regulations. For work performed outside of the United States, Subcontractor is familiar with the U.S. Foreign Corrupt Practices Act (the "FCPA"), its prohibitions and purposes, and will not undertake any actions that may violate the FCPA.
  - E. The Subcontractor should be aware of [Winrock's Code of Conduct](#), compliance with all laws, and the importance of reporting any known or suspected Code violations or illegal behavior so that Winrock can investigate and act on any findings. Reporting requirements include (but are not limited to) fraud, waste, abuse, conflicts of interest, workplace or sexual harassment, and discrimination. Reports can be made to Winrock representatives (such as the Chief of Party or Project Director), Winrock's Chief Risk and Compliance Officer, or on line to [www.winrock.ethicspoint.com](http://www.winrock.ethicspoint.com).

**13. TITLE TO TANGIBLE PERSONAL PROPERTY.** Unless otherwise indicated in the Schedule of the Subcontract, title to property financed under this Subcontract shall be held by Winrock or if Winrock so directs by another entity, unless otherwise indicated in the schedule of this Subcontract. The Subcontractor shall care and account for all property financed under the Subcontract and shall ensure that such property shall be used solely to further program objectives. Upon project completion, the Subcontractor shall submit the program asset list, request prior approval on final disposition of property, and subsequently dispose of property as instructed by Winrock in writing. Should the Subcontractor be approved to retain property purchased under the Subcontract, the property shall be used to further program objectives.

**14. INTANGIBLE PROPERTY.** Except as otherwise indicated in the schedule of the subcontract:

- A.** Intangible property (including all types of intellectual property) created or developed for, or for which ownership was purchased, under the Subcontract, shall be titled to Winrock, unless otherwise indicated in the Schedule of this Subcontract or except as otherwise approved by Winrock on a case-by-case basis. Winrock Funder reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the intangible property for Federal purposes, and to authorize others to do so.
- B.** Ownership of all intellectual property of whatever nature (including without limitation brands, trademarks, service marks, franchise rights, copyrights, rights in data, and other rights) by Winrock before the Start Date, or created or developed subsequent to such Date, shall be and remain Winrock's exclusive property at all times. The Subcontractor shall receive rights in such intellectual property, if at all, only through separate written licensing agreements.
- C.** If, pursuant to this article the Subcontractor is approved by Winrock to copyright a copyrightable work, Winrock reserves the following rights: a world-wide, royalty-free, nonexclusive, irrevocable right in perpetuity to reproduce, publish, or otherwise use the work in the interests of Winrock's programs.
- D.** If any patentable inventions arise as a result of this Subcontract, the Parties agree to follow standard Funder rules, guidelines, and procedures.

**15. CONFIDENTIALITY.** Both Parties acknowledge that any information obtained in performing this Subcontract regarding the operation of a Party or its products, services, policies, systems, programs, procedures, donor relations or any other aspect of its business, is confidential and proprietary. Both Parties will hold such information confidential and will not [i] use such information for any purpose other than performance of this Subcontract or [ii] disclose such information, directly or indirectly, to any other person, without in each instance the prior written consent of the other Party.

**16. STOP WORK ORDER**

- A.** Winrock International may at any time, by written order to the Subcontractor, require the Subcontractor to stop all, or any part, of the work called for by this Subcontract for a period of 90 days after the order is delivered to the Subcontractor, and for any further period to

which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Subcontractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Subcontractor, or within any extension of that period to which the parties shall have agreed, Winrock International shall either:

- 1) Cancel the stop-work order; or
  - 2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience, clause of this Subcontract.
- B.** If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Subcontractor shall resume work. Winrock International shall make an equitable adjustment in the delivery schedule or Subcontract price, or both, and the Subcontract shall be modified, in writing, accordingly, if:
- 1) The stop-work order results in an increase in the time required for, or in the Subcontractor's cost properly allocable to, the performance of any part of this Subcontract; and,
  - 2) The Subcontractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if Winrock International decides the facts justify the action, Winrock International may receive and act upon the claim submitted at any time before final payment under this Subcontract.
- C.** If a stop-work order is not canceled and the work covered by the order is terminated for the convenience, Winrock International shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- D.** If a stop-work order is not canceled and the work covered by the order is terminated for default, Winrock International shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

**17. SUSPENSION, TERMINATION AND ENFORCEMENT.** Unless otherwise indicated in the Schedule of the Subcontract. This Subcontract may be terminated for any of the following reasons:

- A. *Mutual.*** By mutual consent of the Parties upon their written agreement.
- B. *Default.*** Either party may terminate this Subcontract immediately if the other party for any reason whatsoever, fails, refuses, or is unable to perform the work or violates the terms and conditions of this Subcontract. Either party may choose to issue a cure notice prior to such termination.
- C. *For Convenience.*** Winrock may terminate this Subcontract if the funding source for this Subcontract is terminated. Further, Winrock may terminate this Subcontract in whole or in part, at any time, and for any reason, by providing ten (10) days written notice of the effective date of the termination to the Subcontractor. The Subcontractor shall be

responsible for satisfying all its obligations relative to the performance under this Subcontract through the effective date of termination. Winrock shall only be responsible for expenses incurred after the effective date of termination as described in Paragraph E below.

- D. Remedies for Noncompliance.** If a Subcontractor materially fails to comply with the terms and conditions of this Subcontract, whether stated in a Federal statute, regulation, assurance, application, or notice of Subcontract, Winrock may impose any of the following actions, as appropriate in the circumstances:
- 1) Temporarily withhold cash payments pending correction of the deficiency by the Subcontractor or more severe enforcement action by Winrock;
  - 2) Disallow all or part of the cost of the activity or action not in compliance;
  - 3) Wholly or partly suspend or terminate the current Subcontract;
  - 4) Take other remedies that may be legally available.
- E. Effects of Suspension and Termination.** Costs of obligations incurred during a suspension or after termination of the Subcontract are not allowable unless Winrock expressly authorizes them in the notice of suspension or termination or subsequently. Other costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

The costs result from obligations which were properly incurred before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are non-cancelable, and the costs would be allowable if the Subcontract were not suspended or expired normally at the end of the funding period in which the termination takes effect.

- F.** If Winrock materially fails to comply with the terms and conditions of this Subcontract, the Subcontractor may terminate this Subcontract pursuant to Paragraph B.

**18. FORCE MAJEURE.** Any delay or failure of either party of required obligations shall be excused if and to the extent caused by acts of God, fire, storm, lockout, strike, terrorist act, flood, sabotage, embargo, war (whether declared or not), riot, prohibition or restriction by any government, major equipment breakdowns or other causes beyond the reasonable control of the party.

If a party asserts Force Majeure as an excuse for failure to perform their obligations, then the party must:

- A.** Notify the other party in writing, of the likelihood or actual occurrence of an event described in this clause;
  - B.** Prove that reasonable steps were undertaken to minimize delay or damages caused by foreseeable events; and
  - C.** Fulfill all non-excused obligations.
- D.** Upon review of the notice, the other party shall determine whether the term of the Subcontract shall be extended for a reasonable time period to complete activities interrupted by the delays.



## **19. PUBLIC NOTICES AND COMMUNICATIONS**

- A.** Any public notices or communications by the Subcontractor to the public, and in particular to the mass media or any public forum whatsoever (including press, radio, television, cinema, internet, etc.) relating to this Subcontract shall be subject to prior authorization in writing by Winrock. If Winrock authorizes the Subcontractor to supply the public with information, the Subcontractor shall ensure that such information is provided accurately.
- B.** The Subcontractor shall not use the names or logos of Winrock or its funders without the advance written consent of Winrock. The Subcontractor shall not refer to its relationship with Winrock or to the Subcontract without Winrock's prior written approval.

**20. AMENDMENTS.** Winrock and the Subcontractor agree that any changes to this Subcontract shall be accomplished through written modification to this Subcontract executed by both parties.

**21. FUNDER REQUIREMENTS.** In order to comply with Winrock's award with its Funder, Winrock may be required to make changes to Funder requirements in the Subcontract. Winrock shall notify the Subcontractor via an amendment should any modifications be required. Promptly on receipt of Winrock's amendment, the Subcontractor shall take all necessary and practicable steps to comply with these requirement(s).

## **22. COMPLIANCE WITH LAW**

- A.** In performing its obligations and exercising its rights under the Subcontract, the Subcontractor shall fully comply with all applicable laws (including without limitation all statutes, decrees, ordinances, administrative orders, rules, regulations, and other mandatory directives, policies, and instructions with binding legal effect), whether in the United States, the Cooperating Country, or elsewhere. To the extent that Federal law does not exist, the laws of Arkansas shall apply. By accepting this Subcontract, Subcontractor agrees to waive any rights to invoke the jurisdiction of the local national courts where this Subcontract is performed.
- B.** The Subcontractor shall be solely liable to pay all costs of such compliance. In addition, the Subcontractor shall be solely responsible to obtain in a timely and effective manner all licenses, permits, and other approvals (including, without limitation, approvals pursuant to the export control, foreign assets control, sanctions, anti-terrorism, and other similar or related rules in the United States), if any, necessary for Subcontractor's successful implementation of Subcontract activities.
- C.** Compliance costs are eligible for reimbursement under the Subcontract if they are (1) included in the Subcontract budget, and (2) comply with the Applicable Cost Principles as well as any other pertinent Subcontract provision(s). However, the Subcontractor is solely responsible, without reimbursement under the Subcontract, for all costs, risks, damages, and other liability incurred by it as a result of its failure to comply with the applicable law.
- D.** The Subcontractor shall indemnify and hold harmless Winrock for and from all costs, risks, delays, losses, damages and other liability incurred by Winrock due to Subcontractor's noncompliance with such laws or failure to secure such licenses, permits, and other approvals.

## **23. HEADINGS AND TERMS**

- A. The headings in this Subcontract are inserted solely to facilitate convenient reference, and are not intended, nor shall they be deemed, to define, limit, or describe the scope of the Subcontract or the meaning of any provision herein.
  - B. In this Subcontract, unless the context clearly requires a different result, singular and plural words, and any words with an implication of gender, are interchangeable.
- 24. EXECUTIVE ORDER 13224.** The Subcontractor is reminded that U.S Executive Orders and U.S Law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Subcontractor to ensure compliance with these Executive Orders and Laws. This provision must be included in all second-tier Subcontracts issued under this Subcontract.
- 25. ANTI-TRAFFICKING IN PERSONS DIRECTIVE.** The Subcontractor acknowledges that, Winrock is opposed to human trafficking, prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this Subcontract may be used to engage in trafficking in persons or to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.
- 26. EQUAL EMPLOYMENT OPPORTUNITY.** All contracts or lower-tier subawards to be performed in the United States, or to be performed with employees who were recruited in the United States, shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Chapter 60, "Office of Federal Subcontract Compliance Programs, Equal Employment Opportunity, Department of Labor," to the extent required by the foregoing.
- 27. DEBARMENT AND SUSPENSION.** In accepting this Subcontract, the Subcontractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any US Federal department or agency. Any change in the debarred or suspended status of the Subcontractor during the life to this Subcontract must be reported immediately to Winrock. The Subcontractor agrees to incorporate the Debarment and Suspension certification into any lower-tier subaward that they may enter into as part of this Subcontract.
- 28. MANDATORY DISCLOSURE.** The Subcontractor must disclose, in a timely manner, in writing to Winrock all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Subcontract. Failure to make required disclosures can result in any of the remedies described as may be required by the funder including suspension or debarment.
- 29. SEVERABILITY.** If any provision of this Subcontract is deemed by any court of competent jurisdiction to be void, voidable, invalid or unenforceable for any reason, the remainder of the provisions shall not be affected and shall remain valid and enforceable.

**30. WAIVER.** Failure by Winrock to insist upon strict compliance with any provision of this Subcontract shall not be deemed to be a waiver or relinquishment of, or otherwise to affect or modify, any of Winrock's rights or Subcontractor's duties hereunder, nor shall any waiver or relinquishment of any such right or duty in one case be construed as a waiver or relinquishment in another case.

**31. ORDER OF PRECEDENCE.** In the event of a conflict or inconsistency between provisions of this Subcontract, the conflict or inconsistency will be resolved by giving precedence in the following order:

- Subcontract General Conditions
- Funder Terms and Conditions or Standard Provision
- Subcontract Budget
- Subcontract Program Description

**32. ENTIRE AGREEMENT.** This Subcontract is the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, communications, negotiations and discussions, whether oral, written or electronic, involving the Parties. The terms of this Subcontract, together with such other documents as may be incorporated by reference and/or attachment, and with such additional terms as are approved in writing by Winrock and the Subcontractor in any modification of this Subcontract, constitute the entire contract between Winrock and the Subcontractor.

## **ATTACHMENT B**

### **USDA FOOD FOR PROGRESS TERMS AND CONDITIONS**

US Government Terms and Conditions are provided below. Subcontractor acknowledges and agrees to comply with all applicable law in connection with its performance of its services under the Subcontract, including the follow US Government Terms and Conditions to the extent they are applicable and impose obligations on Subcontractor.

- A. This agreement is subject to the terms and conditions set forth in 7 CFR part 1499. The office of Management and Budget guidance at 2 CFR part 200, as supplemented by 2 CFR part 400 and 7 CFR part 1499, applies to the Food for Progress Program. In addition, except as otherwise provided in 7 CFR part 1499, other regulations that are generally applicable to grants and cooperative agreements of USDA, including the applicable regulations set forth in 2 CFR chapters I, II, and IV, apply to the Food for Progress Program.
- B. The OMB guidance at subpart F of 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to subawards to subrecipients under this part, except where the subrecipient is a for-profit entity, foreign public entity, or foreign institution. Audit requirements for recipients and subrecipients that are for-profit entities or foreign organizations are set forth in §1499.18.
- C. The subcontractor is required to be registered in the System for Award Management (SAM) and continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.
- D. If a freight forwarder is used to transport the commodities, the freight forwarder must be registered with SAM. The freight forwarder must submit the following documentation to be maintained and made

available to Winrock as specified in 7 CFR 1499.6(a)(1)-(6): (1) The original, or a true copy of, each on board bill of lading indicating the freight rate and signed by the originating ocean carrier; (2) For all non-containerized cargoes: (i) A signed copy of the Federal Grain Inspection Service (FGIS) Official Stowage Examination Certificate; (ii) A signed copy of the National Cargo Bureau Certificate of Readiness; and (iii) A signed copy of the Certificate of Loading issued by the National Cargo Bureau or a similar qualified independent surveyor; (3) For all containerized cargoes, a copy of the FGIS Container Condition Inspection Certificate; (4) A signed copy of the U.S. Food Aid Booking Note or charter party covering ocean transportation of the cargo; (5) In the case of charter shipments, a signed notice of arrival at the first discharge port, unless CCC has determined that circumstances that could not have been reasonably anticipated or controlled (force majeure) have prevented the ocean carrier's arrival at the first port of discharge; and (6) A request for payment of freight, survey costs other than at load port, and other expenses approved by CCC.

- E. The total commission or fees paid to intermediaries in the transportation procurement process will not exceed 2.5% of total transport costs; demurrage costs will not be paid in any case.
- F. Shipments of donated commodities are subject to the requirements of 46 U.S.C. 55305, regarding carriage on U.S.-flag vessels. Ocean Transport must be in accordance with 7 CFR 1499.7(a) and FAR Subpart 47.5 – Ocean Transport by US-Flag Vessels.
- G. If a freight forwarder is used, it must be licensed by the Federal Maritime Commission and submit certification as specified in 1499.7(d) indicating that the freight forwarder (1) is not engaged in, and will not engage in, supplying commodities or furnishing ocean transportation or ocean transportation-related services for commodities provided under any FFPr Program agreement to which the recipient is a party; and is not affiliated with the recipient and has not made arrangements to give or receive any payment, kickback, or illegal benefit in connection with its selection as an agent of the recipient.
- H. All surveys obtained must, to the extent practicable, be conducted jointly by the surveyor, the recipient, and the carrier, and the survey report must be signed by all three parties. The recipient must obtain a copy of each discharge or delivery survey report within 45 days after the completion of the survey.
- I. If the recipient has title to the donated commodities, and donated commodities valued in excess of \$5,000 are damaged at any time prior to their distribution or sale under the agreement, regardless of the party at fault, Winrock must be notified immediately and arrange an inspection by a public health official or other competent authority approved by CCC and provide to CCC a certification by such public health official or other competent authority regarding the exact quantity and condition of the damaged donated commodities. The value of damaged donated commodities must be determined on the basis of the commodity acquisition, transportation, and related costs incurred by CCC with respect to such commodities, as well as such costs incurred by the recipient and paid by CCC. The recipient must inform CCC of the results of the inspection and indicate whether the damaged donated commodities are: (1) Fit for the use authorized in the agreement and, if so, whether there has been a diminution in quality; or (2) Unfit for the use authorized in the agreement.
- J. The Subcontractor is prohibited from using sale proceeds to acquire goods and services, either directly or indirectly through another party, in a manner that violates country-specific economic sanction programs.

- K. The Subcontractor must pay to the recipient the value of any donated commodities or sale proceeds, that are lost, damaged, or misused as a result of the Subcontractor's failure to exercise reasonable care.
- L. Audit requirements as outlined in 7 CFR 1499.18 are applicable to this Subcontract.

#### **Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers

must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]